



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 29, 1995

Ms. Tamara Armstrong  
Assistant County Attorney  
Travis County  
County Courthouse  
P.O. Box 1748  
Austin, Texas 78767-1748

OR95-1629

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. Your request was assigned ID# 20947.

The Travis County District Attorney's Office received an open records request for "all conversations, notes of correspondence, faxes, or telephone calls between the District Attorney's Office and the White House or the Governor's Office from May 1, 1993 to June 10, 1993." You have released most of the information that is responsive to this request. You have submitted for our review one document which you assert is excepted from disclosure by sections 552.101 and 552.108 of the Open Records Act.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The informer's privilege, which is incorporated into the Open Records Act by Section 552.101, protects the identity of a person who reports a violation or possible violation of the law to officials charged with the duty of enforcing that law. *See Roviato v. United States*, 353 U.S. 53, 59 (1957). The content of an informer's statement may be withheld from public disclosure to the extent necessary to protect the informer's identity. *See, e.g.*, Open Records Decision Nos. 582 (1990), 579 (1990), 377 (1983). Consequently, you may withhold from disclosure the informant's identity and any other portions of the document which would tend to identify the informant. We agree that the informant's place of employment may be withheld in this instance as information which would tend to identify the informant.

Section 552.108(a) of the Government Code excepts from disclosure "a record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime." When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Attorney General Opinion MW-446 (1982); Open Records Decision Nos. 444 (1986), 434 (1986).

When you submitted the enclosed document for our review, you stated that it "concerns an ongoing criminal investigation in a pending case on which a decision will be made whether to prosecute." We do not know the current status of the case. If the case is still under active investigation, then you are required to release only that information which would generally appear on the first page of the offense report. *See* Open Records Decision 127 (1976). Although the identity and description of the complainant generally appear on the first page of the offense report, you may, nevertheless, withhold that information in this case in order to protect the identity of your informant. If the case is closed, you should release all information in the document that is not excepted from disclosure under section 552.101.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and is not a previous determination under regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Karen Hattaway".

Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/rho

Ref.: ID# 20947

Enclosure: Submitted document

cc: Ms. Donna Weathers  
6115 Hanson Road  
Amarillo, Texas 79106  
(w/o enclosure)